

REVIEW  
OF THE  
HON. J. P. KENNEDY'S  
DISCOURSE  

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HON. JOHN P. KENNEDY'S

DISCOURSE

On the Life and Character of

GEORGE CALVERT,

THE FIRST LORD BALTIMORE.

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BALTIMORE:

PRINTED BY JOHN MURPHY, 178 MARKET STREET,

MDCCCXLVI.



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Campbell, Bernard U.  
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ERRATA.

Page 6, 21st and 22d lines, for *Bishop of Toledo* read *Archbishop of Grenada*.  
Page 13, first note, for *Discourse p. 74*, read 34.  
Page 21, fifteenth line from the bottom, for *ever* read *even*.

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\* First discourse before the Maryland Historical Society, delivered on 20th of June, 1844, by Charles F. Mayer, A. M.

which was rather increased than diminished by the delay from June to December, which circumstances had made unavoidable. Perhaps the composition may have suffered from this cause. The belief that much is expected sometimes bewilders the writer as well as the orator; and long protracted time for preparation may obscure the emanations of genius, as superfluous labor often mars the beauty of a graceful structure by encumbering it with incongruous appendages. As a literary composition, we think it inferior to many, perhaps all, of the author's productions. And we regret it: for we were among those who expected something from him, alike creditable to his own talents and honorable to the respectable society who appointed him its orator. With a proper apprehension of the fate of *Gil Blas* for condemning the bishop of Toledo's last homily, we would say, with that well-meaning critic, that this discourse savors of apoplexy, were it not for its concluding apostrophe to adversity as the tutor of heroes. That portion of the discourse is worthy of the author's best days, and almost tempts us to suspect that it was composed for some other occasion, and merely attached to the discourse on Calvert for a graceful peroration. Ben Johnson, who was free to admit the genius of Shakspeare, would sometimes rail at his neglect of "the unities;" and, in the like spirit, we may suggest that this same peroration is out of both time and place. Out of time, because the drift of the preceding portion of the discourse is to detract from the character of Calvert, for the noble qualities with which history has invested it; and out of place, because, so far as his biographers testify, he had no experience whatever of adversity. Possessed of talents and wealth, honorably employed, patronized by the great prime minister, esteemed and rewarded by his sovereign—what was the adversity in which he was schooled, except when he embraced, in the last seven years of his life, the proscribed creed of the Catholic

church? But he appears to have had the address to escape the penalties allotted to his new faith, by withdrawing from England immediately after his conversion. We are now considering Calvert as history has exhibited him;—not in the character which Mr. K. has invented for him. We do not, however, undertake a literary criticism of this discourse. But the auspices under which it has been ushered into existence, give it an importance that calls for the examination of its statements. Ordinary courtesy to its author, perhaps, required that the society should publish it; and by this means it has appeared before the world with a sanction and a consequence to which no intrinsic merit of its own entitles it. Maryland has a right to complain of the author, for using his office for the purpose of lessening her honest pride in the deeds of her founders. All historians who have written on the subject, have conceded to her first settlers the glory of having established a more liberal polity than was to be found, up to that time, in any other state. But Mr. Kennedy has referred this honor to the king of England, who, he contends, granted such a charter as left the proprietary and the colonists no discretion; but made it imperative on them to found the new province upon the basis of religious liberty. The fallacy of this assumption, as well as of other positions taken by Mr. Kennedy, we hope clearly to expose. We should have no reason to complain of the author, had he presented his own peculiar views of history to the society at its ordinary meetings, as other gentlemen have done. There they could have been canvassed, authorities examined, and from the discussion certainty and conviction would have ensued. Truth, on which side soever it might be found, would have triumphed, and the result would have been such acquisitions to our history as it is the special province of the society to preserve, and thus, in Mr. Kennedy's own words,

"Full stores of the treasures of our young antiquity might have been gar-



nered into a magazine safe enough to deliver them unmutated into our hands!"\*

But by the selection of the principal and public meeting, when "all the beauty and all the intelligence" of the city are the invited auditory of an orator who is supposed to speak the sentiments of his constituents,—by using such an opportunity to mystify our history, and to put forward his own conceits in opposition to all historians who have treated of the subject,—he takes an advantage unworthy of his candor, and not in accordance with the spirit of the society. For no one could presume, "in such a presence," to suggest objections to his statements, or be prepared with authorities to prove their inaccuracy. The publication, in print, of his "historic doubts," requires that they be examined in detail—both for the credit of the state and of that society which is destined, we hope, to be both useful to its history and ornamental to its literature.

Could we believe the portrait of Calvert accurate, as redrawn in the "fancy's sketch" of the orator, we should have little cause of pride or pleasure in contemplating its lineaments. For, notwithstanding all the garniture of eloquence with which he has decked his enumeration of the fancied defects of Calvert's character, the obvious meaning is, that the first Lord Baltimore was selfish in his motives and actions, a sycophant or knave in politics, and in religion a hypocrite. These discoveries certainly are novel, and have escaped all the historians from Fuller down to the scrutinizing Bancroft, and impartial McMahon,—whose brilliant history is equally creditable to his genius, his faithful research, and devotion to truth.

After an outline of the history of the American settlements, the author passes at once to his subject. His first proposition is that the original settlement of Maryland did not

"Owe its conception either to religious persecution, or that desire which is supposed to have influenced other colonies to form a society dedicated to the promotion

of a particular worship. This," continues the orator, "I am aware, is contrary to a very generally received opinion. It is my purpose, in what I am about to offer, to produce some proofs of the assertions I have just made."\*

In other words, Lord Baltimore did not turn his attention to the settlement of Maryland because of the persecutions of Catholics in England; nor from a desire to secure an asylum for his fellow members of that communion. It is in the attempt to establish this negative and novel proposition, that the author of the discourse is led to deal in vague surmises, and erroneous inferences: prejudicial to the character of Lord Baltimore, and subversive of facts, not only never before disputed, but adduced by most credible historians to sustain his high character. According to the "Discourse," he was a speculator in grants of new settlements, for ambitious purposes and pecuniary gain alone; he was indifferent about religion, a dissembler, and, withal, was a Catholic all his life.† These are all legitimate conclusions from the author's statements, put forth to sustain his assertion that the establishment of the Maryland colony did not owe its "*conception*" to religious persecution, or to the "*desire*" to promote any "particular worship."

Now we think that a fair mode of understanding what were the conceptions and desires of Calvert, is to compare them with the *acts*, which were manifestly intended as their development and fulfilment. If this be not the "philosophy of history," it is at least fair dealing, and that quintessence of wisdom called common sense. If the author had respected such evidences, he would not have doubted that, from the period of Calvert's conversion, his mind was pregnant with the cherished idea of shielding from persecution his numerous family, and his fellow Catholics, and securing them an asylum, where they might serve God in peace, in the exercise of "their particular worship." And yet, as if to shut out such a presumption, the au-

→ but you must get their facts, you can have them

\* Discourse, p. 5.

\* P. 14.

† See p. 35 of the Discourse.

thor tells us that the charter, drawn up and carried into execution in the "spirit of the broadest and most liberal toleration towards at least all Christian sects,"\* did not indicate "a *special* desire to provide an asylum for persecuted Catholics." Now is it credible that Calvert, himself a Catholic, subject to persecution the moment the king should look coldly on him, could have no special desire about his own situation and that of his family? Or is a desire that those of a particular religion should profit by a liberal grant, inconsistent with a willingness that *all others* might share in its advantages? If the orator's family, in common with many others, were subject to odious restraints, and he had influence enough to obtain their removal, can it be imagined that, in the fulness of general philanthropy, he entertained no special desire for the welfare and relief of his own kindred and connexions? To suppose this would be both unjust and unnatural. But if it was really the design of Lord Baltimore to make Maryland an asylum for Catholics, is it to be supposed he would have set forth such intention in the charter? If he had, Charles durst not at that period (1632) have affixed his royal signature to it, and no man understood better than Calvert the difficulties of the king's position. The outcry against popery often drove him to acts of persecution, that his admirers say were revolting to his nature. And we find the parliament often charging him with his too great lenity to Catholics, in reprieving priests condemned to death for the exercise of their functions. Mr. Kennedy promises (p. 14) to produce proofs to establish his assertions that the desire to escape religious persecution, and to enjoy liberty of conscience, had no influence in causing the first settlement of our state. But we look in vain for his proofs.

The question is one of history—not of imagination: and the proofs should be sought in those historians whose information and credibility are entitled to the most confidence—not in the conjectures and

strained inferences of the author of the discourse. Contemporaneous publicity of the intentions of the Catholic colonists can not be expected, not merely because the press was closed against them, but because publicity would have invoked opposition from the zealots they were fleeing from. But we find satisfactory proof of the religious motives of Lord Baltimore, in the exemplification of his plan of settlement. It never has been questioned—Mr. Kennedy himself does not doubt that Cecilius Calvert did but fulfil his father's wise designs.

"He was faithful to the trust, and in the same beneficent, liberal and sagacious spirit in which the colony was first projected, he devoted himself to the ministration of its affairs."\*

Was not the first movement of Cecilius Calvert to collect a band of Catholic gentlemen and Jesuit fathers, and despatch them with his brothers to his domain of Maryland? And as they touch the shores of their new home, do they not manifest the "special desire" of their hearts in the most solemn religious exercises of adoration and gratitude to God, with all the forms and ceremonies of Catholic worship? Their first impulse, and their first acts, are to erect an altar and a cross; to chant the litanies, and to celebrate mass; to name capes and islands, bays, rivers, and their new city, after saints. Showing how, above all things, they appreciated their newly acquired liberty of conscience, and luxuriated in the enjoyment of freedom of Catholic worship. These were the *first* proceedings under the charter framed by Sir Geo. Calvert, and carried into execution according to his plans and instructions; and they constitute such illustrative proofs of his *desire*, and such evident manifestations of his original *conception*—as well as of the motives and intentions of the first actual settlers, as can not be refuted by mere fanciful speculations, and their inferences, designed to misrepresent his motives, and tarnish his

\* Ibid. pp. 41, 42.

\* Mr. Kennedy's Discourse, pp. 43 and 44.

fame. In the words of the first orator of the society :

"This father of the province put to his edicts the seal of his noble heart as well as the sanction of his titles ; and with this charter gave to Maryland the injunctions of his policy which has crowned her with the purest distinctions of history. I speak of what George Calvert effectively did, though he did not live to accomplish personally all that he thus liberally devised."\*

The acts of the colonists were, indeed, the development of his generous design, and the expression of the sentiments of hearts responding joyfully to the wisdom of his original conception. Yet, in the face of facts like these, Mr. Kennedy declares, p. 24 :

"There is no evidence that his ardor in these undertakings was stimulated by any motive having reference to particular religious opinions."

But he who will survey the history of the period will arrive at a different conclusion. Was it possible that a *Catholic* in the reign of James I, or Charles I, should not be stimulated, in obtaining a colonial grant, by motives "having reference to particular religious opinions?" In the midst of civil and political disabilities of all kinds, of fines and confiscations that brought many wealthy families to poverty ; subjected to invasion of their most sacred domestic privacy by ruffian "pursuivants ;" witnessing the banishments and hangings of their priests ;—when such was the daily doom of men of Calvert's creed, is there no evidence that his ardor in the undertaking was stimulated by motives having reference to particular religious opinions ? Yet, Mr. Kennedy tells us, "we are on the contrary *bound* to presume that his purpose was in part the advancement of his own reputation, the increase of the wealth of his family," &c. p. 24.

Where history is explicit, we should not indulge the imagination in conjecture. Of what use are records, if "history, the

\* First Discourse before the Maryland Historical Society, by C. F. Mayer, p. 20.

registry of probation, the chart of a nation's path, be suppressed and denounced as a record of questionable doings or pedantic minutiae?"\*

We will refer to some of the writers on Maryland's history, to show how far their testimony coincides with the negation embraced in Mr. Kennedy's first proposition.

Our first authority, Beverly, will prove that in 1628, six years before the settlement of Maryland, its founder visited Virginia in search of an asylum for religious liberty. He says :

"Calvert (Lord Baltimore), a Roman Catholic, thought *for the more quiet exercise of his religion to retire with his family* into that new world. *For this purpose* he went to Virginia to try how he liked the place ; but the people there looked upon him with an evil eye on account of his religion, *for which alone he sought this retreat* ; and by their ill treatment discouraged him from settling in that country."†

Wynne says :

"His Lordship (Sir George Calvert) was a Catholic, and *had formed his design of making this settlement, in order to enjoy a liberty of conscience*, which, though the government of England was by no means disposed to deny him ; yet the rigor of the laws threatened in a great measure to deprive him of—the severity of which it was not in the power of the court to relax."‡

On this point Douglass says :

"Upon a new royal regulation in Virginia, several families went over from England to settle there ; amongst these was Lord Baltimore, a rigid Roman Catholic ; *for the advantage of a more free exercise of his religion, he retired thither* ; but being ill used,"§ &c.

The article "Maryland" in the *Modern Universal History*|| has the following ac-

\* Mr. Mayer's Discourse, p. 28.

† History of Virginia, by a native and inhabitant of the place. R. B. Gent. 2d edition. London : 1722. P. 46.

‡ Wynne's History of America.

§ Douglass's Summary, Vol. 2, p. 355. London : 1760.

|| Vol. 36, p. 107 and 108. London : 1780.



count of the motives and objects of our colonists :

"The Lord Baltimore, who was of the Roman Catholic religion, and *had obtained the grant to be an asylum to himself and those of his persuasion from the persecutions of the times*, appointed his brother, Lionel (Leonard) Calvert, governor of his new colony, and joined in commission with him Jeremy Hawley and Thomas Cornwallis, Esqrs. The first plantation, consisting of about two hundred colonists, were sent thither in 1633, chiefly, if not wholly, Roman Catholics, many of them gentlemen of fortune ; and, like the Protestants of New England, *their settlement was founded upon a strong desire for the unmolested practice of their own religion.*"

In addition to the testimony of the historians quoted, showing that Lord Baltimore was influenced by religious motives in founding Maryland as an asylum for his Catholic brethren, we have public documents which prove that these motives were admitted in Maryland.

About the year 1751 the policy of requiring Catholics to pay taxes on their lands, double the amount exacted from the Protestant inhabitants, was first introduced. On this occasion, among other efforts to protect themselves from this unreasonable and unjust imposition, they addressed a petition to the governor, which contains the following passages :

"Many Roman Catholic gentlemen of good and ancient families in the kingdoms of England and Ireland, and many others of lesser note, to *avoid the penal laws in force in their native countries, and other vexations, to which they were liable at home, quitted their countries, their friends and relations, and every thing dear to them, to enjoy these privileges, that freedom, liberty, and equality in every thing here, especially a full liberty of conscience, and to that end only transported themselves into this province.*"

And in another place, in the same petition, they say :

"For the province being granted to a

Roman Catholic, the act concerning religion having passed, &c., the Roman Catholics looked upon Maryland as *an asylum and place of rest for themselves and their posterity.*"\*

At a later date, 1758, the upper house of assembly refused to require the double tax from Catholics, and among other reasons gave the following : "The first settlement of this province was made by the Roman Catholics, who had been driven from their native country by the severity of its laws, and an act for an unlimited toleration of all Christians passed in the year 1640, after they have been *promised and allowed an asylum here,*"† &c. The lower house, in reply, says : "As we have never discovered any thing in history or otherwise that will justify or even countenance your assertion that the papists were promised and allowed an asylum here, we should be glad to have it explained to us,"‡ &c.

This explanation is furnished very amply in the rejoinder of the upper house : the following are some portions of it : "You have been pleased to remark upon this passage of our message, that you have not been able to discover any thing in history or otherwise, to justify or countenance our assertion that the papists were promised and allowed an asylum here. It may be so, but it is not our fault, that you have not, and, to be plain with you, we should have been restrained from telling you what you have been pleased to acknowledge, by the apprehension of its giving offence. However, as you have desired to have this matter explained, and we flatter ourselves it may have some effect, we shall undertake to do it in as full a manner as the shortness of the time will admit." After quoting some introductory passages of the charter, the explanation proceeds : "After the charter was thus granted to Lord Baltimore, who was then a Roman Catholic, his lordship emitted his

\* Petition to Gov. Sharp.

† Votes and Proceedings of L. House, March term, 1758, p. 29.

‡ Ibid. p. 52.



proclamations to encourage the settlement of his province, promising therein, among other things, liberty of conscience, and an equal exercise of religion to every denomination of Christians who would transport themselves and reside in his province, and that he would procure a law to be passed for that purpose afterwards. The first or second assembly that met after the colonists arrived here, some time in the year 1638, a perpetual law passed in pursuance of his lordship's promise, and indeed such a law was easily obtained from those who were the first settlers. This act was confirmed in 1640, and again in 1650. By this act it was enacted, 'that whatsoever person or persons should, upon any occasion of offence or otherwise, in a reproachful manner, or any way declare, call or denominate any person or persons, inhabiting or residing, trading or commercing within the province, an heretic, &c. &c., papist,' &c. &c.

"The grant to Lord Baltimore, who was a papist, his lordship's promises and declarations, the confirmations of them by acts of assembly, and the oaths we have recited, we hope will amply justify our assertion, that the Roman Catholics were promised and allowed an asylum here.

"As you have been pleased to say that you have not discovered any thing in history or otherwise to countenance our assertion, we shall mention some passages from books for your satisfaction, though we must observe to you that writers may be mistaken or misrepresent, but the evidence we have produced can't mislead. Mr. Bowen, speaking of Maryland, says: 'The first colony sent to Maryland was in the year 1633, and consisted of two hundred people. The chief of these adventurers were gentlemen of good families and Roman Catholics; for persons of that religion, being made uneasy as well as Protestant Dissenters, they transported themselves to this province, hoping to enjoy there the liberty of their consciences, under a proprietary of their own profession, as the then Lord Baltimore was.'"

The same paper contains extracts from various other historians to the same purpose, and concludes this branch of the subject with remarking: "Many other passages from books to the like effect might be cited, but we presume they would be unnecessary."\*

With such evidence as the early writers on Maryland furnish, sustained by the testimony of a Protestant legislature of 1758,—for no Catholic was then eligible as a member, or even entitled to vote for members of the legislature,—it is difficult to account for Mr. Kennedy's doubts.

But while the orator denies that Calvert was influenced by religious motives in his attempts at colonization, he attributes these to a spirit of commercial speculation: his proofs of which are of an extraordinary character. He shows that Calvert had been a member of the Virginia Company from 1609 to 1620; had procured a charter for a portion of Newfoundland, and resided there some few years; yet, during the whole period that Calvert was interested in the colonization of Virginia, he could not have derived the least return for his investment: as the Virginia Company was, so far as the patentees were concerned, an utter failure, and Calvert had even been denied permission to reside there, unless he would renounce his faith. He did not go to Newfoundland until the reign of Charles I, of course after he had become a Catholic. Having built a fine house there for his family, he expended one hundred and twenty-five thousand dollars in "advancing the plantation," fitted out two ships at his own expense, defended his country's possessions against a hostile attack, and defeated the enemy;† and after this great outlay from his private fortune, he abandoned Newfoundland. Now if his object in colonizing had been the enriching of his family, and this the motive of his "passion for charters," who will say that

\* Votes and Proceedings of the L. House Assembly of the Province of Maryland, pp. 65—67.

† Discourse, pp. 18 and 19.

the continued disappointments of twenty years would not have been sufficient to have given the spirit for speculation, with which his new biographer has endued him, its everlasting quietus? This is a trait of character that no former biographer has ever assigned to Calvert. On the contrary, he is described "as a man of great good sense, not obstinate in his opinions, taking as much pleasure in hearing the sentiments of others as in delivering his own."\* And, as if to leave no room to suspect him of selfish motives, or of being a mere speculator, Fuller, his contemporary, remarks: "Indeed *his public spirit* consulted not *his private profit*, but the enlargement of Christianity and the king's dominions," and Mr. Kennedy has quoted this passage from Fuller† Would not a more just inference from Calvert's character and history have been, that none but more lofty motives could have induced his last attempt, in which his son expended two hundred thousand dollars in the first two years of the settlement of Maryland? If ambition or wealth had been his object, in his previous engagement in colonization, both had been signally disappointed. The orator's inference that Calvert's name being among the members of the Virginia Company is an evidence of his passion for charters and speculation, is not justified by facts. The list‡ numbers among the members of the corporation the names of the archbishop of Canterbury, the bishops of Bath and Wells, of Lincoln, of Worcester; the earls of Bedford, Devonshire, Salisbury, Northampton, &c. &c., the countess of Shrewsbury, Lady Conway, Lady Gray, &c. &c. Were these all speculators? Or may we not rather suppose that patriotic views for the enlargement of the king's dominions, and for the aggrandizement of their native country, influenced some, while a laudable desire to diffuse the light of the Gos-

pel among the "salvages," led others to encourage the then popular scheme of American plantations? That the latter motive is not a mere conjecture, appears from the following passage in Oldmixon's History of Virginia, chap. v. "When the nobility, gentry, merchants and others, first got a grant of this country, and resolved to make a settlement upon it, they received large contributions to carry it on from several devout persons who were for propagating the Gospel among the Indians, building schools, churches, and settling ministers for their conversion and instruction."\*

If the orator has been unable to establish his first proposition by evidence, his failure to prove that Calvert was not a convert to the Catholic faith is still more signal. We will give his own words in stating this, which we regard as his second proposition:

"Upon this question of the supposed conversion of Calvert, there seems to be room for great doubt. I do not believe in it at all. I think there is proof extant to show that he had always been attached to the church of Rome, or, at least from an early period of his life."†

The process of reasoning, by which he endeavors to prove his negative, is very remarkable. He has employed more industry in the attempt to subvert this simple historical fact than on any portion of his discourse. Detached scraps of history, questionable dates, the sneers of political and religious opponents, are all marshalled by Mr. K. to assist his hypothesis, without allowing to the affirmative of the question the least support from the clear and indisputable records of the time. And while he infers proofs to sustain his conjecture from the sentiments and character of the king, he entirely omits those from the whole spirit of contemporaneous history, which go to establish the fact he disputes. And yet, with remarkable complacency in his exertions, he asserts

"That Sir George Calvert was, if not

\*Belknap, vol. ii, p. 367, who quotes Collier and Kippis.

†Mr. Kennedy's Discourse, p. 18.

‡In Captain Jno. Smith's History, v. ii, p. 45, &c. Richmond edition.

\*Brit. Empire in America, vol. i.

†Discourse, p. 30.

actually nursed in the faith of Rome, no convert to that faith in his period of manhood : that if he ever was a Protestant, there is no record of it within our knowledge.”\*

Before we proceed to analyze the various arguments of Mr. Kennedy, we will quote the passage from Fuller, the contradiction of which employs so large a portion of the discourse. Mr. K. gives it in these words :

“He freely confessed himself to the king that he was then become a Roman Catholic, so that he must be wanting in his trust, or violate his conscience in discharging his office.”†

Mr. K. remarks that “the chief authority for his conversion is Fuller.” We ask could there be better? He is an author of great respectability, and was, withal, so decidedly opposed to the Catholic religion, that he would not have mentioned so remarkable an occurrence had there been the least doubt of it; nor would he have omitted to state Calvert’s hypocrisy or dissimulation, had he been a concealed Catholic. Mr. K. admits that “*Fuller was his contemporary*,”‡ he had then the best means of ascertaining the truth of what he asserts in his history. But Mr. K. discredits Fuller’s story of Calvert’s being a convert, because he “can not perceive” with him “that there was any special reason connected with Calvert’s official relation to James which rendered it a point of conscience that he should give up his office.”§ But it must be observed that Fuller does not give his speculative opinions, or perceptions of causes or motives; but he states with confidence, as facts, the resignation by Sir George Calvert of his office, the reason which he assigned to his sovereign, namely, his conversion to the Catholic faith; and he describes the remarkable effect produced upon the king’s mind by that confession, and the consequences which resulted to Calvert from his ingenuous proceeding. There is no surmise or conjecture by Fuller, but a

positive assertion of facts which occurred within his own time; and the narration of which was necessary to the fidelity of a biography which he was then writing, because the incidents were not only striking in their character and connection, but also influential in a high degree upon the future history of the subject of his memoir and the fate of his family. Turning aside, in a very unlaywerlike way, from the *positive* testimony of Fuller, a veracious witness, the orator has preferred to substitute *circumstantial* evidence to prove the negative. With what success we shall see.

Wood’s silence as to the circumstance of Calvert’s conversion is relied on by the orator as evidence of the inaccuracy of Fuller. Yet, if Wood be fairly examined, his evidence will be found to corroborate, rather than impugn Fuller’s statement. He says that Calvert, AT THE TIME of being created Lord Baltimore, was “then a Roman Catholic, or at least very much addicted to their religion.”\* Now, the time when he was created Lord Baltimore was 16th Feb., 1624—the date precisely assigned by Fuller for his conversion. The inference, therefore, is that he was not always so regarded, else why specify a particular time as that at which he was so affected? Thus, too, with Mr. K’s other witness, Abbott, archbishop of Canterbury, who says “that *since* Charles’ return from Spain, (which was in the last of 1623,) Mr. Secretary Calvert apparently did turn papist, which he now professeth.” Does this contradict Fuller? To be sure, he adds “this is the third time he has been to blame in that way.” This is a sneering innuendo to which converts are accustomed—but very different from saying that this was the third time he had become a Catholic; and certainly does not avail our orator, who contends that he was always a Catholic, or certainly from 1619, whereas, Abbott describes Calvert’s conversion in 1624 as a fresh event, and thus corroborates

\* Discourse, p. 74. †Ib. 17. ‡Ib. 16. §Ib. 32.

\* Wood, vol. i, p. 565.



Fuller. But while Mr. Kennedy attaches importance to the sneering remark—the mere conjecture of Abbott after Calvert's avowed conversion—because it suits his purpose, he discredits and rejects the remainder of Abbott's statement as the unsubstantial testimony of an enemy. Now, if we take the truthful account of Fuller, that from 1619 to 1624 Calvert was secretary of state, at which latter period he resigned and freely confessed “to the king that he *was then become* a Roman Catholic,”\* has this positive historical record been contradicted by any witness, or any incident which the orator has cited? It has not. Additional evidence that Calvert was not a Catholic in 1620 is found in the period of his parliamentary career. He was elected a member of the house of commons in 1620. At that period, even if as a Catholic he had been eligible to a seat in the house of commons, it is not to be imagined that an Oxford or a York constituency would have elected a member of that persuasion as their representative, or that, in the then state of popular excitement, they would have chosen a member who was suspected of being “popishly affected.” Now his parliamentary services terminated in 1624—the time of his conversion as stated—and, thus, this fact may be invoked as well as the testimony of Wood and Abbott, to confirm the veracity of Fuller. It should have been enough for an impartial mind, that Calvert's conversion was stated positively by a disinterested and credible contemporary—who, besides, could have had no motive for fabricating such a story—to save his fame from the imputation cast upon him by the discourse—of being a pliant trifler with his faith.

But while the orator infers a doubt of Fuller's accuracy from Wood's silence on the subject of the conversion, he does not find a confirmation of Fuller in the various authors who have repeated the statement: and there are many. Among these may be mentioned, as of the first au-

thority, Kippis, in the *Biographia Britannica*, vol. iii, p. 152.

The record of such an incident in that elaborate work, in which the dates of Calvert's life, &c., are examined with scrupulous care, and the various authors who have mentioned him are collated and quoted with critical precision, gives to the confirmation of this fact high authority. Our own Belknap, who has produced the most complete biography of Calvert, repeats it; and, besides, we have the fact recorded by Dodd in the following words:

“An. 1624, Feb. 16th, he was created Lord Baltimore of Longford, in Ireland, by the name of Sir Geo. Calvert, of Danbywisk, &c., and *about that time* became a member of the Catholic church.”†

Besides the authorities Cambden and Wood, Dodd refers to MS. for the life of Calvert.

One of the most extraordinary of the attacks on Fuller's veracity is that founded on the *supposed* date of Calvert's charter for Avalon. The zeal with which the orator elaborates his argument upon this topic, requires more time to analyze his quotations and exhibit how utterly fallacious are his conclusions, than under other circumstances would be bestowed on them. Mr. Kennedy says:

“Now Calvert settled his colony in Newfoundland in 1621; and Oldmixon and others, amongst whom I find our own historian Bozman,† have ascribed this settlement to his wish to provide an asylum for persecuted Catholics. Although I can not discover any warrant for this statement, either in the history of the times or in what is known of Calvert, yet the assertion of it by Oldmixon and those who have preceded or followed him, demonstrates that they did not credit the story of the conversion as given by Fuller: for the author of the *Worthies of England* dates the conversion three years later than the settlement of Avalon, and affirms it to be the motive to Calvert's resignation of a high trust, which, he informs us, the secretary supposed he could not conscientiously hold as a Catholic.”‡

\* The Church History of England, vol. iii, folio, p. 46. Brussels: 1742.

† History of Maryland, vol. i, p. 232.

‡ Discourse, pp. 30 and 31.

\* Discourse, p. 17.

Now the inference that Oldmixon discredits Fuller is entirely unauthorized, as are, also, the deductions from the date of the settlement, 1621, as being the date of the charter.

The orator was not aware that Calvert had made a settlement in Newfoundland before he obtained a charter for Avalon, and therefore he has himself fallen into the error of confounding the settlement of Capt. Wynne in 1621, when Sir George Calvert was secretary of state and a Protestant, with the endeavor to find an asylum for the practice of his religion in 1626, and later, when he had become a Catholic. But while the orator quotes Bozman's authority, he has no right to assume 1621 as the date of the charter for Avalon. Oldmixon does not profess to give the date of the charter. But Bozman furnishes the highest testimony that has been produced to show that the date of the charter for Avalon was 1623. This statement is made in the *Bibliotheca Americana*, published in London, 1789, and its authority is the catalogue of MSS. relative to America preserved in the British museum. Bozman adds: "In corroboration of this state of the charter of Avalon may be cited the *Geographical Grammar* of Patrick Gordon, published in 1719, a work which has been always deservedly held in high estimation by literary men. He therein, under the head of Newfoundland, thus speaks of its government: 'In the year 1623, Sir George Calvert, principal secretary of state, having obtained a patent for a part of Newfoundland, erected the same into a province (called Avalon), and therein settled a plantation, which after him was enjoyed by his son Cecilius Lord Baltimore.'"<sup>\*</sup>

Oldmixon does not contradict Fuller, but in fact confirms his statement. For after stating that Sir George Calvert was not in Newfoundland until after 1624, he adds: "His zeal for the Romish religion would have been no lett to his fortune in King James' opinion, if he could have

<sup>\*</sup> Hist. Maryland, vol. i, note, pp. 240 and 241.

borne the restraint of a disguised Protestant, which he could not, and so resolved to withdraw to Newfoundland for conscience' sake, as the Puritans were at the same time for the same cause withdrawing to New England."<sup>\*</sup>

Now the truth is Sir George Calvert was interested in Newfoundland several years before he obtained a grant of Avalon from the king. This interest was assigned to him by Sir William Vaughan, who had an interest in a patent for the south part of Newfoundland as early as 1617, and resided there many years. Vaughan and Calvert had been students together at Oxford. Being disappointed in his expectations of his colony, Vaughan assigned a portion of his grant to Viscount Falkland and to Lord Baltimore, the latter of whom, Vaughan remarks, "to his immortal praise, *has lived there these two last years with his lady and children.*"<sup>†</sup> It was therefore in furtherance of this interest that Sir George sent Capt. Wynne thither in 1621, and, as an evidence that this settlement preceded the date of the charter for Avalon, we find the following passage in Capt. Wynne's letter written from Newfoundland to Sir George Calvert, dated 17th of August, 1622: "If a plantation be there this next spring settled, and your honor will let me be furnished with charters, and give me leave to work, I make no doubt but to give your honor and the rest of the undertakers such content that you shall have good encouragement to proceed."<sup>‡</sup>

Having shown the fallacy of the orator's statement that *Avalon* was chartered and settled in 1621, all his arguments founded upon that hypothesis asserting that Calvert was a Catholic in 1619, and imputing to him oaths which, as such, he could not conscientiously take, must fall.

<sup>\*</sup> British Empire in America, vol. i, p. 9.

<sup>†</sup> From Vaughan's book, the *Newlander's Cure*, printed in London, 1630, quoted in N. A. Review, vol. iv, p. 291, &c. See also Vaughan's life in Wood's *Athenæ Oxonienses*, vol. ii, p. 528, and notices of him and his various writings composed in Newfoundland, in Oldmixon, vol. i, pp. 7, 8.

<sup>‡</sup> Oldmixon, vol. i, p. 10.

The orator's whole assumption in regard to the date of the Avalon charter and settlement is unauthorized, and the authorities he refers to contradict his statements.

It is surprising that the orator should find any support to his hypothesis in the remark of Arthur Wilson (p. 38) about those lords who were *popishly affected* in 1620. The term was used by one political party to designate the other party, who were endeavoring to bring about a marriage between the prince of Wales and the infanta of Spain, and, although James himself was the head of the party, those who were furthering his views were denounced as "popishly affected," precisely as the most violent members of our two former political parties characterized the democrats as under French influence, and the federalists as British tories. The extravagant appellations of political partisans can never be depended on as just designations of the principles of their opponents. It is most probable that when Wilson spoke of "the earls of Worcester and Arundel, and the Lord Digby and Sir George Calvert and Sir Richard Weston, and others popishly affected,"\* he only meant to denote their coöperation with Catholics in their efforts for the Spanish match, to which the Catholics looked for relief from the penal laws, and with good reason, as it is matter of history that James had agreed to a secret treaty with Spain, binding himself to alleviate the sufferings of the persecuted Catholics.

At the close of his attempts to prove the insincerity of Calvert in his religious profession, Mr. Kennedy remarks, with complacent confidence, that "the evidence thus accumulated upon this point leaves us no room to doubt the inaccuracy of Fuller's statement."† We would repeat that our orator has used singular industry in collecting disjointed passages of history, and has strained inferences from them to sustain his novel proposition, but has overlooked or omitted many facts and consequences that would seem to belong to

the subject, but are opposed to his hypothesis.

We do not impute to him any "sectarian spirit," nor question that he is "incapable of being enlisted as a partisan in such a cause."\* That is his affair, not ours. We do not attribute motives, we are discussing facts; to ascertain the truth of a history which Mr. Kennedy has impeached, and whether the estimate to be made, hereafter, of our orator, be more or less favorable to his talents for history, or his spirit of justice, will be of as little consequence in the decision of this question of Maryland history, as is the declaration of his "respect for all who honestly profess the faith of either of the churches to which this controversy refers."† As the orator refers to churches, we will add: there is one expression in the Discourse which, from the use that has sometimes been made of it, is regarded as disrespectful, and therefore does not obtain in polite conversation as a designation of the Catholic church. We allude to the term "Romish,"‡ which, though quite innocent in itself, from having figured as a nickname or term of reproach in the English and colonial laws for restraining and punishing Roman Catholics, grates upon the Catholic ear, just as the political designation of tory, which is not reproachful in England, would be disagreeable to an American, although only used to characterize him as the supporter of the administration of his own country. Mr. Kennedy is too well bred to use, in conversation with the Chief Justice of the United States, or the Archbishop of Baltimore, the appellative of the Romish church, if he wished to speak to them of the ecclesiastical society of which they are members; and hence he should have selected another term, when speaking to his polished auditory, of a church whose name is so well known.

Although "Fuller's veracity" has been sufficiently vindicated, we find a note on the 18th page of the "Discourse" which

\* Discourse, p. 33.

† Ibid. p. 39.

\* Ibid. p. 34.

† Ibid. p. 34.

‡ Ib. p. 28.



we think is conclusive against all Mr. Kennedy's surmises that Sir George Calvert was a Catholic all his life. It is from the London Magazine, June, 1768, and relates to the grant of lands in Ireland from King James to Sir George Calvert. As our orator has not favored us with any illustration of the important incidents referred to in the extract, we must supply the omission by some explanatory history, the relevancy of which will, we hope, excuse its length.

The unsuccessful result of the various military attempts to conquer the native Irish, and exterminate their religion, by the fierce penal enactments of Elizabeth's reign, satisfied James I that there was some defect in the system of measures pursued. More vigorous military operations were impracticable in the state in which the national finances then were. To pass laws for rooting out the faith of the Irish of greater severity than those of Elizabeth, was impossible. The great aim of the latter had been to substitute a Protestant population for that of the Irish Catholics—English, if possible, but Protestant at all events. To carry into effect this rational scheme for the conversion of the Irish, they were often goaded to desperation, that the English might confiscate their estates. "If once declared rebels, their lands and property lay at the mercy of their pursuers."\* Large domains were thus confiscated, and parcelled out among the dependants of the court.† The outraged owners of the soil were often troublesome neighbors to the English colonists, who were too few in number to keep them in subjection. Hence the enforcement of the measures of rapine and spoliation was attended, not only with trouble and danger to the English settlers, but with annoyance to the imperial government, and withal, the pious work of converting the intractable natives made but slow progress. James, whose opinion of his own ability as a legislator, was equal to his es-

timate of his theological eminence, determined to take the matter in hand, and to *civilize* and *convert* the Irish at once. It is matter of history that James regarded the "plantation of Ireland" as one of the *chefs d'œuvres* of his reign. He commenced on a large scale without delay, and made it a convenient mode of rewarding his needy friends. "Six entire counties in the province of Ulster were confiscated, and nearly five in another."\* By the orders and conditions of the plantation of Ulster,† the spoils were divided, first, "to English and Scotch, who are to plant their proportions with English and Scottish tenants;" secondly, to "servitors," and thirdly, to natives, who are to be freeholders. Those of the first class were designated as "undertakers." They and the servitors were bound under penalty never to sell to the *mere Irish*, nor to *Roman Catholics* of any nation; for the disposal to persons who did not take the oath of supremacy, and 'conform themselves in religion according to his majesty's laws,' was rigorously prohibited and punished."‡ The undertakers were bound to take the oath, "and," says article 7th of the conditions, "to that end *a proviso shall be inserted in their letters patent.*" Art. 8. "The servitors shall take the oath of supremacy, and be conformable in religion as the former undertakers."§

The king's system of plantation worked so successfully in Ulster, for the objects he had in view, that he extended it to other counties; among which was *Longford*, and in 1614 he appointed a special commission to take proper steps for "reducing and settling them."|| In the fourteenth year of King James was established in Ireland the court of wards, the ostensible object of which "was to educate the heirs of the great *Catholic* families in the *Protestant* religion, and thus prevent the growth of popery."¶

Having now seen what were the designs of King James in his favorite mea-

\* Leland, ii, 347.

† Carey's *Vindiciæ Hiberniæ*, 105, 106, &c.

\* Vind. Hib. 174.

† Ibid. 179.

‡ Ibid. 179.

§ Ibid.

|| Ibid. 191.

¶ Ibid. 214.

sure, the plantation of Ireland, we are prepared for the first part of Mr. Kennedy's note, which is in the following words:

"The king being given to understand that divers towns and lands within the late plantation of Longford, amounting to about two thousand three hundred and four acres, remained in his hands undisposed of, he conferred the same on Sir George Calvert, his principal secretary, as a person worthy of his royal bounty, and *one that would plant and build the same according to his late instructions for the better furtherance and strengthening of the said plantation.* The grant was accordingly made 18th February, 1621."\*

We ask, was Sir George Calvert a Catholic at the time of receiving this grant, made upon the conditions expressed in it, as appears by the above extract of Mr. Kennedy? To believe so is to suppose him capable of an act worthy of the utmost infamy!

According to King James' "*instructions*" he would have been bound not only to take "the oath of supremacy, and to conform in religion," "*to which end a proviso was inserted in the letters patent,*"—but also to use active measures to extirpate the Catholic religion from the territory contained within his grant. Could he then have been a Catholic in 1621? We are willing to abide by Mr. Kennedy's answer to the question.

We shall now be able to understand the remainder of Mr. Kennedy's note, which is as follows:

"This patent Calvert 'surrendered to the king 12th February, 1624 (1625 according to the present calendar,) and had a re-grant thereof in fee-simple, dated at Westminster, 11th March following, to hold as the castle of Dublin in free and common socage, by fealty only for all other rents, with the erection of the premises in the barony of Longford into the manor of Baltimore, and those in the barony of Rathlyne into the manor of Ulford, with the usual privilege of courts, parks, free warren,' &c.—*London Magazine, June, 1768.*"†

We are not informed of a reason for

this "*surrender*" of the patent, but we are told it was made February, 1624; and this was the time when he resigned his office as secretary of state, and "freely confessed himself to the king that he was *then* become a Roman Catholic, so that he must be wanting to his trust or violate his conscience in discharging his office."\* Neither could he, as a Catholic, carry on the "plantation" agreeably to the conditions of his patent, and consequently his title would have been *void in law*. Yet the king had bestowed this grant upon him three years before, of his "royal bounty," in consideration of faithful services, which had been increased since that time, by fidelity to his sovereign in promoting his favorite project, "the Spanish match." For this he had borne from the opposition the reproach of being a "Hispaniolized papist." His claims upon the monarch's gratitude were greater than when he had first received the grant; and it would have been an act of meanness in the king to permit his faithful minister to lose the benefit of his former bounty—which probably had thus far been a cause of expenditure rather than a source of profit. His surrender placed it again in the hands of the king, because he could not hold it by the former conditions; but there was no impediment to his receiving an unconditional title in fee simple; and, accordingly, we find that within a month afterwards the king gave him a re-grant of the same land, in fee simple, to hold in free and common socage *by fealty only* for all other rents.

Weak, inconsistent, and contemptible as James was in his general character, there were moments when he exhibited an amiable tenderness, and occasions on which he showed that he prized merit, and was not destitute of gratitude. We are not left to conjecture the effect made upon the king by Calvert's avowal of his conversion to the ancient church—for Fuller says his frankness "so highly affected the king that he continued him

\* Mr. Kennedy's Discourse, p. 18. † Ib.

\* Ibid. p. 17.



privy counsellor all his reign, and created him Lord Baltimore.\*

But there is another objection to our orator's assertion "that if Calvert ever was a Protestant, there is no record of it within our knowledge."† Of all the enemies in church or state which the Catholics had to contend against, Robert Cecil, earl of Salisbury, was the most subtle, implacable, and powerful. He had displayed the bitterest hostility to Catholics during the previous reign of Queen Elizabeth, whose prime minister he was. And the nine years in which he was prime minister to James were signalized by his uncompromising opposition. The exercise of his eminent abilities, assisted by his great experience in the policy of Elizabeth, contributed more than the efforts of any other individual in England, to the devices by which the professors of the ancient faith were spoiled of their possessions; and, with their clergy, consigned to prison, to the rack, and to the gibbet. Yet this keen and able minister, the Talleyrand of his day, who had even deceived Elizabeth herself,‡ was the early patron and friend of George Calvert.§ Calvert was twenty-six or twenty-eight years of age when he entered into his service; he continued in his confidence several years, and was recommended by Cecil to the office of clerk of the privy council. Could Calvert have been a Catholic then? His entrance into Cecil's employ was at the period when the examinations and trials growing out of the gunpowder plot excited suspicions throughout all England. Cecil himself took part in these examinations—and is it possible that he could have been deceived so far as to have a Catholic for his confidential secretary?¶ To believe that Calvert could have deceived Cecil in the matter of religion, is to be credulous to a degree only inferior to the

consummate hypocrisy which it presupposes Calvert to have been capable of.

But among the most curious of Mr. Kennedy's arguments to prove that Calvert was always a Catholic, and not a convert, is that founded upon the sentiments of King James. He says, p. 32:

"There was no great asperity in the feelings of James against such Catholics as had been bred and nurtured in that faith. Towards such he was in the habit of expressing the most tolerant opinions. But he was noted for the avowal of particular hostility against such as had been converts from the Protestant church."

Now if there was one king of England who more than all others was conspicuous for his inconsistency, and the avowal of opposite sentiments to gain his ends, that king was James I. Sully, who, as Lord Rosny, had been ambassador at the English court, pronounced him the *wisest fool* in Europe—and the character was a compliment. McCauley says of him:

"The follies of the man increased the contempt which was produced by the feeble policy of the sovereign. The most ridiculous weaknesses seemed to meet in the wretched Solomon of Whitehall: pedantry, buffoonery, garrulity, low curiosity, the most contemptible personal cowardice. Nature and education had done their best to produce a finished specimen of all that a king ought not to be. The sovereign whom James most resembled was, we think, Claudius Cæsar. Both had the same feeble, vacillating temper, the same childishness, the same coarseness, the same poltroonery."\*

Before James came to the throne of England, he endeavored to enlist the Catholics in his favor, by holding out hopes of relief from the cruel laws then in force against them.† Their attachment to the house of Stuart, and their sufferings in the cause of his unfortunate mother, gave them claims upon his gratitude. He had bound himself to grant them indulgence, by his promises to their envoys and the

\* Discourse, p. 34.

† Biograph. Brit. Art. Cecil.

‡ Discourse, p. 16.

§ Cecil is described by Sir Fulk Grevill in his "Five Years of King James" as "the only supporter of the Protestant faction, disclosure of treasons, and the only Mercury of our time."

\* Nugent's Memorials of Hampden.

† Mr. Kennedy's quotation from Bishop Burnet, Discourse, p. 34 and 35, is evidence of this fact.

foreign Catholic princes. He invited some of them to court, and promised to protect them from the penalties of recusancy. And yet, in 1604, on 22d February, he required all priests to depart the realm before 19th March, under pain of having the sanguinary laws of Elizabeth executed against them without mercy; and many of them were shipped off. In that year and the next, the two first of his reign, one priest and five laymen were executed for their religion.\* To the dismay of those Catholics who had relied upon assurances of the king's lenity, the legal fine for recusancy of £20 per lunar month was again demanded, and not only for the time to come, but for *the whole period of the suspension*. This atrocious regulation, by crowding thirteen payments into one, reduced many families to beggary. To satisfy the wants of his needy countrymen, whose importunities for money were incessant, he transferred to them his claims on the more opulent recusants, with authority to proceed against them by law in his name, unless the sufferers should submit to compound by granting an annuity for life, or the immediate payment of a large sum.† Yet this is the king who, according to the "Discourse," "was in the habit of expressing the most tolerant opinions towards Catholics who had been bred and nurtured in that faith."

But, when James began to desire the union between his son and the infanta of Spain, it became necessary to relax the severity of the laws against Catholics, to obtain a favorable answer from the Spanish king. The prisons had been crowded with priests; yet, from 1607 to 1618, *only sixteen* had been put to death for the exercise of their functions.‡ From the fines of lay Catholics for recusancy, the king derived a *net* income of £36,000, or \$180,000 *per annum*.§ "When the king," says Dr. Lingard, "in 1616, preparatory

to the Spanish match, granted liberty to the Catholics confined under the penal laws, four thousand prisoners obtained their discharge.\* In 1620 he promised the king of Spain relaxation of the laws in favor of Catholics; in July, 1622, to induce the pope to be favorable to the match, this relaxation took place; and in 1623 James bound himself by the word of a king that the English Catholics should no longer suffer restraint, provided they confined the exercise of their worship to private houses.†

The match was broken off in the last days of 1623, and when the king met the parliament in Feb., 1624, he declared that although he had connived at a less rigorous execution of the penal laws, yet to dispense with, to forbid, or alter any that concerned religion, "he had never promised or yielded—never thought it with his heart, nor spoke it with his mouth."‡ And yet our orator discredits a grave historian because his statement of a fact which occurred in his time, and has been unquestioned for two centuries, is inconsistent with the feelings and character of James I, as displayed towards his Catholic subjects.

"It is against all rational deduction of human conduct to believe, in the face of James' known aversion against converts to the Catholic from the Protestant faith, and his continued manifestation of kindness to Calvert, that the story told by Fuller, of Calvert's conversion, can be true."§

Rational deduction from James' conduct! Why nothing rational could be deduced from it. He was a living paradox, a practical contradiction. What his tongue was engaged in declaring, his hands were employed in contradicting. And the utmost exertion of his abilities were sometimes used to perpetrate acts of duplicity and to maintain falsehood.¶

\* Hist. Eng. vol. ix, p. 128.

† Lingard, ix, p. 163.

‡ Lingard ix, p. 175. Authorities stated.

§ Mr. Kennedy's Discourse, p. 33.

¶ See the extract from Prynne 44, Hardwicke papers, i, 428—430 in Dr. Lingard's Hist. Eng. note, p. 175, vol. ix. Philada. edition.

\* Challenor, vol. ii, pp. 12 and 13.

† Lingard, ix, p. 31.

‡ Challenor's Memoirs, vol. ii.

§ Hardwicke Papers, i, 446.

The attempt to show that Calvert was under no necessity to resign his office, either on account of the obligations of conscience or from the dispositions and sentiments of the king, we regard as the most unfortunate of the "Discourse." Of the dispositions of the king we shall say no more. But the casuistry employed to justify Calvert in retaining office, after he had changed his religion, seems to have been held in no estimation by a man of Calvert's instinct of honor and sound moral principle. He had, as a Protestant, taken the oath as to the king's supremacy, as a condition precedent to his holding a cabinet appointment; but, according to this doctrine, if he changed his religion during his continuance in office, so as to hold that spiritual supremacy was in the successor of St. Peter, and not in the head of the state, it threw upon him no disqualification, no obligation to discover his change of sentiment; so that a man may to-day, as a condition of office, swear to support a king's supremacy, and to-morrow, when the oath becomes repugnant to his conscience, continue without blame in a station of the highest trust and confidence without revealing the change to his employer. Such conduct in a minister of state, where the church was essentially connected with the government, would exhibit a man, in the language of the orator, "remarkably calm and unobtrusive, ever compromising and politic in his religious opinions."\* But Lord Baltimore appears to have been made of more sterling metal. With the sincerity of a Christian and the candor of a man of honor, he preferred laying down the honors and emoluments of his high station, telling his sovereign that "he was then become a Roman Catholic, so that he must be wanting to his trust, or violate his conscience in discharging his office." The judgment of the world for two hundred years has pronounced his eulogium, and stamped the seal of its approbation upon this honorable act. But in truth Calvert's

conduct, assigning his profession of the Catholic faith to the king as his reason for withdrawing from the cabinet, is conclusive against our orator's surmise that he was a Catholic all his life. For, if he had concealed his religion so long from the king, why should he now declare it when the surrender of his post was the consequence?

Our orator is peculiarly unhappy in the witnesses he names to prove the soundness of the course he would advocate in Calvert's case. He says:

"There were several Catholic noblemen who enjoyed the confidence and friendship of James, and received high dignities from him: there were, for example, the two Howards, Lords Thomas and Henry, one the son and the other the brother of the duke of Norfolk, who were both brought into the ministry, the first being created earl of Norfolk, and made lord treasurer, the second earl of Northampton."

These specimens of Catholicity will not bear the test of history. "Lord Thomas Howard, earl of Norfolk, partly through fear, partly through desire of the king's favor, he accommodated himself to the time," and "in the royal chapel at Whitehall, on the 25th of December, 1615, he publicly received the sacrament according to the forms of the established church."\* Of Lord Henry, earl of Northampton, Walpole says: "At the king's request, he abandoned popery. He had even been a competitor with Grindal for the archbishopric of York, but miscarried from the doubtfulness of his religion."† Sir Fulk Grevill says of him, that, having been brought up a papist, "by the persuasion of the king, changeth his opinion of religion in outward appearance, and to the intent to reap unto himself more honor, became a Protestant, for which cause he was created earl of Northampton."‡

Mr. Kennedy, having disposed of the personal history of Lord Baltimore very much to his satisfaction, next proceeds to

\* Tierney's *Arundel*, vol. ii, p. 427.

† *Noble Authors*, vol. ii.

‡ *The Five Years of King James*.

\* *Discourse*, p. 27.



demolish the claims of the Catholic proprietary and settlers of Maryland to the glory of having established religious liberty, and to crown King Charles I with that honor, and this we consider his third proposition. We will let the orator speak or himself:

"The glory of Maryland toleration, which has been so fruitful a theme of panegyric to American historians, is truly in the charter, not in the celebrated act of 1649. There is more freedom of conscience, more real toleration, an hundred-fold, in this charter of a Protestant prince to a Catholic nobleman, than in that act so often recalled to our remembrance, in reference to which I propose to take some other opportunity to review its history and its supposed claims to our admiration. The glory of Maryland toleration is in the charter—not in the act of 1649."\*

As this is a professional point, we will, in order not to have what the equity lawyers call a multifarious bill, defer the consideration of the act of 1649 until the orator shall have prepared those illustrations which he promises, to enable mankind to estimate its "supposed claims to our admiration"—but with this remark, that Maryland toleration was coeval with the foundation of the colony, to as great an extent as it was after the passage of that act.

Mr. Kennedy reasons hypothetically from his own peculiar construction of the charter, and we have little more than his surmises here, as in other parts of his discourse, against the recorded facts of history. With a sophistry unworthy of such a subject, he argues that because the charter "secured to all emigrants who chose to demand it the free exercise of the religion of the *church of England*,"† therefore, the glory of Maryland toleration is in the charter. But surely this is a *non sequitur*. For intolerance, at that day, mainly consisted in requiring all British subjects to conform to the religion of the church of England. It was this intolerance that incensed the Puritans in England, that subjected the Catholics and dis-

senters to the cruel laws against nonconformists, that drove the Brownists from their native land, and finally led the pilgrims of Massachusetts to encounter the rigors of their painful settlement. Was not that intolerance in Virginia which refused to Catholics and dissenters permission to exercise their respective religions there? But intent upon proving that the glory of toleration was in the charter of Maryland, the orator asserts that all Christians "found there a *written covenant* of security against all encroachment on their rights of conscience by the lord proprietary or his government."\*

The inference from the orator's assertions would be, that this "*written covenant*" is in the charter. But we look in vain for it in that instrument. The author does not designate it. It can not be in "that proviso which prohibits any interpretation of the charter which might 'change, prejudice, or diminish' the true Christian religion, or the allegiance due to the crown,"—for he assures us that that "was *undoubtedly* intended to guard the rights of those persons attached to the *English church* who might emigrate to the province,"‡ and he defines allegiance as including the acknowledgment of the king's supremacy "as well in all spiritual and ecclesiastical things or causes as temporal."§ If, then, Mr. Kennedy's construction of the only clause in the charter which has relation to the subject be correct, there was no stipulation or provision made for freedom of religious worship to any but the members of the church of England; and, of course, neither Catholics nor dissenters had in the charter "a written covenant of security against all encroachment on their rights of conscience."§ We can not find in the charter a single stipulation on the subject except the above, which Mr. Kennedy has quoted from the 22d section.

As to "the patronage and advowsons of all churches, and the sole authority

\* Discourse, p. 42.

† Ibid. p. 41.

\* Ibid. p. 44.  
‡ Ibid.

† Ibid. p. 27, 28.  
§ Ib. p. 44.

to license the building or founding of churches and chapels,"\* conferred upon the proprietary by the fourth section of the charter, Mr. Kennedy remarks :

"In regard to these last two subjects, I beg to observe that they apply strictly and exclusively to the church of England, the Protestant Episcopal church."†

We are not entirely satisfied that we understand the application which the orator would make of that portion of the Maryland charter which relates to patronage and advowsons. If he means to say that the power conferred on Calvert in these respects was one that "placed him under obligations, on this point of supremacy and allegiance, which, as an honorable man, he could not have incurred if he entertained the scruples imputed to him,"‡ we should think that our orator exhibits what the schoolmen would call a little rustiness in the laws regulating this species of hereditaments. For Catholics and members of every denomination had a perfect right in the reign of Charles I, by the laws of the land, to present to benefices in the established church of England. The advowsons which Catholics had in this church were first vested in the two universities in the reign of William and Mary, and it was not until the twelfth year of Queen Anne that they were disabled from presenting to ecclesiastical benefices. So that throughout the reigns of the Stuarts, and for more than half a century after the grant of the Maryland charter, this concession—which, according to our orator, Lord Baltimore could not accept without violating obligations to his king which were inconsistent with his duties as a Catholic—was an *existing right*, possessed by every Catholic in the British realm to whom advowsons might have descended. In his anxiety to enhance the merits of Charles I, and to depreciate the character of Lord Baltimore, our orator seems to have drawn more upon his fancy than his professional erudition, for the law re-

lating to religious benefices. Mr. Charles Butler, the distinguished annotator of Coke upon Littleton, who may be presumed to know the law on this subject as well as most men of his profession, informs us that it was at a period long subsequent to the date of the charter for Maryland, that parliament interfered with the right of Catholics to present to religious benefices. I. W. & M. ch. 26, vested the presentations belonging to Catholics in the universities,\* and "one law (12 Anne) was passed against the Catholics in her reign : it disabled them from presenting to ecclesiastical benefices, and vested the right of presenting to them in the universities. This, perhaps, is the penal law of which the Catholics have the least reason to complain, as it may be alleged that there is an evident incongruity in allowing any denomination of Christians to appoint the religious functionaries of another: yet it should not be forgotten that, as the law of England now stands, the unbaptized Quaker, and even the Jew, may present to benefices in her church."†

The author's "conclusion"‡ that Calvert could not have scrupled to take the oath of supremacy because he had received the rights referred to, and which were common to many lords of a domain at that period, derives as little force from the "import" of the clause of the charter which confers it, as that instrument can claim of the glory for Maryland toleration, for merely securing protection to members of the church of England, in the exercise of their religious worship.

Mr. Kennedy has failed to establish his third proposition by any better evidence than his own assertion. For the record does not bear him out, and we must attribute the honor of a policy which has challenged the admiration of mankind, to the proprietary and first settlers of Maryland, and not to the king; not to the charter. And such appears to have been Mr.

\* Butler's Hist. Mem. vol. iii, p. 136.

† Butler's Hist. Memoirs, v. iii, pp. 148 & 149. London, 1822.

‡ Discourse, pp. 31 and 32.

\* Ibid. p. 25. † Ibid. ‡ Ibid. p. 32.

Kennedy's own opinion in 1838. For, in his *Rob of the Bowl*, an admitted work of fiction, but of which the author declares "it is proper for him to say that he has aimed to perform his task with historical fidelity," he thus expressed himself in the character of historian :

"Cecilius Calvert, the founder of the province, with a liberality as wise as it was unprecedented, had erected his government upon a basis of perfect religious freedom. *He did this at a time when he might have incorporated his own faith with the political character of the colony, and maintained it by a course of legislation which would, perhaps, even up to the present day, have rendered Maryland the chosen abode of those who now acknowledge the founder's creed.* His views, however, were more expansive. It was his design to furnish in Maryland a refuge not only to the weary and persecuted votaries of his own sect, but an asylum to all who might wish for shelter in a land where opinion should be free, and conscience undisturbed."\*

In the eloquent language of the Historical Society's first orator: "The whole tenor of the early proprietary administration breathed but the element and fostering spirit of universal Christianity—of unstinted toleration within the bounds of the Christian faith. The terms of the governor's oath enjoined as early as 1636 this scrupulous charity in requiring that 'he would not by himself or another directly or indirectly trouble, molest, or discountenance, any one believing, or professing to believe in Jesus Christ for or in respect of religion, that he would make no difference of persons in conferring offices, favors, or rewards, for or in respect of religion, but merely as they should be found faithful and well deserving and endued with moral virtues and abilities; that his aim should be public unity, and that if any person or officer should molest any person professing to believe in Jesus Christ, on account of his religion, he

would protect the person molested and punish the offender."\*

Now whence came this oath which marks at the earliest period of our records the practical freedom of religion in Maryland? Clearly not from the charter, nor from the laws or usage of England, nor from the example of any other colony. Doubtless it was prescribed by Lord Baltimore himself. The ablest writer on our early history tells us: "Lord Baltimore laid the foundation of his province upon the broad basis of security to property, and of freedom in religion; establishing Christianity agreeably to the old common law, of which it is a part, without allowing preëminence to any particular sect."† The incident quoted by Mr. Kennedy‡ from Bozman, proves that at least in 1638, and we know not how much earlier, the governor, Leonard Calvert, *had already issued* a proclamation to prohibit "unseasonable disputations in point of religion, tending to the disturbance of the public peace and quiet of the colony, and to the opening of faction in religion." And the party accused of a violation of public peace by using language offensive to Protestants is fined, and imprisoned until he shall find sureties for his good behaviour. This took place within four years after the settlement, and marks the practice of that early period to have been the same as was afterwards established by law, by the act of 1649. As early as 1637, Governor Calvert wrote a letter to Boston, inviting those of the settlers there, who were disturbed on account of their religion, to come to Maryland: assuring them not only of the liberty of free and unmolested exercise of their religion, but of perfect equality with our colonists in all civil rights.§ When the Puritan ministers were forbidden to preach in Virginia, and their brethren constrained to emigrate, they were welcomed to Maryland. "Mankind then," says Chalmers,

\* C. F. Mayer's Discourse, p. 15.

† Chalmers' Po. An. p. 208.

‡ Discourse, p. 44.

§ Winthrop's Journal.



“beheld a scene new and uncommon, exhibited on colonial theatres: they saw in Massachusetts the Independents persecuting every different sect; the church retaliating on them in Virginia; the Roman Catholics of Maryland alone, actuated by the generous spirit of Christianity, tolerating and protecting all.”\*

The act of 1649 was but the imbodiment of principles which had regulated the practice of the colony from its foundation, and those principles were neither prescribed, nor hinted at, in the charter.

The historian of the government of Maryland, and the ablest expositor of its charter and laws, sustains these views. Having described the course of the government as “one which tolerated all Christian churches and established none,” he says: “This system of toleration was coeval with the colony itself, and *sprang from the liberal and sagacious views of the first proprietary*. The oath of office prescribed by him to his governors in the province, from 1636 until the enactment of the act of 1649, is in itself a text book of official duty, &c. These, *his cherished principles* of religious liberty, were *at length engrafted* by law upon the government of the province, in the year 1649. The act which gave them legal sanction is one of the proudest memorials of our colonial history.”†

But while we can not find a clause in the charter to sustain Mr. Kennedy’s assertion, we are able, unfortunately, to furnish historical proofs that the virtue of toleration was not in the charter: because toleration was afterwards refused, and freedom of religious worship prohibited during the existence of the same charter. “In 1692 the church of England was established by law, and, until the American revolution, it continued to be the established church of the colony.” In 1704 “an act to prevent the growth of popery within the province,” inhibited, by severe penalties, the Catholic clergy from the ex-

ercise of their spiritual functions: Catholics were prohibited from engaging in the instruction of youth,”\* &c. &c., and not until 1702 were the provisions of the English toleration act extended to Protestant Dissenters; “and thus,” says McMahon, “in a colony which was established by Catholics, and grew up to power and happiness under the government of a Catholic, the Catholic inhabitant was the only victim of religious intolerance.”† “The government of Maryland thus became, and continued until the revolution, exclusively Protestant, and the Catholics were taxed to sustain a religion and a government to which they were emphatically strangers.”‡ Now if there was any guarantee of toleration in the charter which made “MARYLAND THE LAND OF THE SANCTUARY;”§ if “all Christians found there a written covenant of security against all encroachment on their rights of conscience,”|| how did it happen that Protestant Dissenters, for several years, and Catholics up to the year 1776, were restrained from the exercise of their own religion, and that both, for that whole period, were compelled to pay for the support of another church? It is true that for the first twenty-six years the power of appointing a governor was taken from the proprietary, and exercised by the king: but the only cause for this was “found in the single fact that the proprietary was a Catholic.”¶ Yet after the Baltimore family became Protestant in 1715, they immediately resumed their dominion over Maryland, and continued in possession, until the declaration of independence. During the whole of this period the charter of Maryland was in force, the whole organization and frame of government existed under, and by virtue of the charter. The legislature, judicial tribunals, and all officers, were indebted to the charter for their official existence, and it alone imparted legality to their proceedings. The charter was never annulled or abrogated; and if it con-

\* Political Annals, p. 219.

† McMahon’s Maryland, p. 226, &c.

\* Ibid. 245.

† Ibid. 246.

‡ Ibid. 281.

§ Discourse, p. 44. || Ibid. ¶ McMahon, 278.

tained the vital spark which first enkindled the flame of religious liberty at the city of St. Mary's, that sacred flame could not have been extinguished by any act of the proprietary, or of the government. But no; the glory of Maryland toleration is not in the charter, and the history of that instrument, as appears by what has been developed, will prove that no peculiar feature had been given to it, because Charles was "a Protestant prince," and Calvert "a Catholic nobleman."\*

It may be remarked that the only references in the charter to the subject of religion are incidental, with the exception of that clause which refers to the patronage and advowsons, &c., of churches, of which we have already disposed. The twenty-second clause directs that, in any doubts about the meaning of the charter, that interpretation of it which is most favorable to the proprietary shall be applied, and then makes the following proviso, to which so much importance has been given by Mr. Kennedy: "Provided always that no interpretation thereof be made whereby God's holy and true Christian religion, or the allegiance due to us, our heirs, and successors, may in any wise suffer by change, prejudice, or diminution." If we admit Mr. Kennedy's construction of the charter, it would only follow that members of the church of England were to be secured in their religious liberty in Maryland,† and consequently the proprietary was under no obligation to extend the same privilege to Catholics and dissenters, who were denied freedom of religious worship by the laws of England, and hence it would follow that the unlimited liberty to all Christians, granted in Maryland, was the free act of the proprietary and the first settlers. But it was not only in the toleration extended to those of different creeds who came to settle in the province that the liberality of the Calverts was conspicuous; for we have seen that the governor actually invited such as were oppressed for conscience' sake in New England and

Virginia to come to Maryland and participate in the blessings of her enlightened and liberal policy. Assuredly the charter did not require the exercise of so expanded a liberality as this, and, therefore, the merit, which Mr. Kennedy claims for that instrument, is surpassed by the more enlarged practical liberality exercised by the governor and the first settlers.

Did we even suppose the charter to have bound the proprietary more closely than Mr. Kennedy contends for, and to have required, what it did not, that he should have debarred the province to no one professing Christianity in general; even by this vague and unauthorized interpretation, the liberal views of the proprietary are eminently conspicuous. For, considering the spirit and circumstances of the times, it would have been a very easy matter for him to imbue the legislation of the colony with a spirit hostile to civil and religious liberty, had such a disposition been lurking in his own bosom. Mr. Charles F. Mayer has very justly observed that "if intolerance had been *in the hearts* of these excellent men, it would readily and assiduously have imbodyed itself in enactments and institutions; and restrictions in that spirit would have had their iron rule in evasions of the chartered interdict, express or constructive. Long, too, before the sufferings of the oppressed could have reached the ears of English royalty, the odious discriminations might have spread their affliction and tortured the obnoxious to quiescence."\* In fact, the history of Massachusetts furnishes proof that such measures of intolerance were not only possible, but actually carried into effect with impunity; not only in violation of the letter of her charter, but in direct opposition to the spirit of the existing laws of England. The case we allude to was that of John and Samuel Browne, two settlers, both of them members of the colonial council, and one of them a respectable lawyer. For exercising religious worship, according to the forms prescribed by

\* Discourse, p. 42.

† Ibid. p. 28.

\* Mr. Mayer's Discourse, p. 15.



the book of common prayer, they were expelled from Massachusetts. Bancroft says "their worship was forbidden as a mutiny, while the Brownes, who could not be terrified into silence, were seized like criminals, and transported to England. They were banished from Salem because they were churchmen."\* Returning to England, they breathed ineffectual menaces, and in fact never received redress. We have already shown (p. 24) what were Mr. Kennedy's opinions in 1838 of the powers of our proprietary on this point. He then asserted that "he might have incorporated his own faith with the political character of the colony, and maintained it by a course of legislation, which would perhaps, even up to the present time, have rendered Maryland the chosen abode of those who now acknowledge the founder's creed." Now are we to credit Mr. Kennedy in 1838, or Mr. Kennedy in 1846?

It is difficult to understand what the orator means by the declaration, "that there is more freedom of conscience, more real toleration, a hundred fold, in this charter of a Protestant prince to a Catholic nobleman, than in that act (of 1649) so often called to our remembrance," &c. It has been seen that the charter does not contain either a covenant for "freedom of conscience," or a guarantee for "toleration:" and Mr. Kennedy is too good a lawyer to hold that any private understanding between the grantor and the grantee would control the interpretation of a perpetual charter under the great seal of England, which solemnly erected a province, and conveyed away a country to the grantee, "and his heirs and assigns for ever." Indeed, as Mr. Kennedy has asserted, and it is not denied, that the charter of Maryland is "a transcript, with no other alteration than the locality required, from that which had before been granted by James, for the province of Avalon,"† we could not expect to find in it any peculiar fea-

tures adapted to the relation of "a Protestant prince" and "a Catholic nobleman." For Calvert was undoubtedly a Protestant when he obtained from King James the charter for Avalon, although he did not go to reside there until some years afterwards, when he had become a convert to the Catholic faith. We may here remark, upon the orator's contradiction of the generally received opinion, that Lord Baltimore was influenced in his plans of colonization by a desire to provide an asylum for Catholics—that, although we have substantiated, by quotations from history, the correctness of the popular belief, there are some circumstances to which we have not sufficiently adverted, that serve to confirm it. It was not until some time after Charles I had ascended the throne, which was in 1625, that Lord Baltimore withdrew from England. With an ample fortune, a fine estate in Yorkshire, an extensive domain in Ireland, and no doubt an establishment in London, he could have had no motives or prospects for the improvement of his family by removing them to Newfoundland. But it is well known that very soon after the commencement of Charles' reign, the attacks of the Puritan party upon the Catholics compelled many of the latter to withdraw from England. The parliament of 1628 that nobly wrung from the king "the petition of right," also petitioned him against that "mystery of iniquity," the concealed toleration of Catholics, and required that "the children of recusants might be educated in the principles of Protestantism."\* Avalon, in the far distant island of Newfoundland, offered an asylum for the family of Calvert beyond the range of the iron bigots who then ruled England: and accordingly we find by Vaughan's book printed in London in 1630, that Lord Baltimore had resided in Newfoundland the *last two years with his lady and children*. Experience soon convinced him that Newfoundland was not a suitable place for an asylum, and, after having expended a large sum

\* Hist. U. S. vol. i, p. 350

† Discourse, p. 21.

\* Lingard, vol. ix, p. 225.

there, he abandoned it. We find him in Virginia in 1628, and his object, as expressly stated by Beverly, was to seek a place there where he and his family might retire for the more quiet exercise of their religion. We think, with Mr. Kennedy, that the Virginians did not look upon Lord Baltimore "in the light of a mere casual visitor," but that he frankly explained his object to be the founding of an asylum for Catholics. At that period the colonists of Virginia were too anxious for the accession of men of the rank and fortune of Lord Baltimore, to have thrown impediments in the way of his settling among them: but they might well have doubted their authority, under the existing laws, and intolerant feeling of the mother country, to sanction the establishment of a Catholic colony; and it would have been unfair, in the highest degree, to have misled him into a settlement, as it would have been imprudent in him to have risked his fortune and happiness in a strange land, without any assurance of that religious liberty for which he was about to renounce his native country. It was, therefore, a much higher motive than mere "self-respect" that led Lord Baltimore to refuse the test oaths, and to forbid his servants to take them. It was the same consistent, conscientious objection which had caused him to resign his office of secretary of state. No other view of the proceeding can explain the tender of the oaths to Calvert; for there was not only no obligation on the part of the Virginia authorities to require these oaths, but Bozman shows\* clearly that they had no right to tender them to Lord Baltimore. Had he been in search of a settlement for himself and his family only, he doubtless could have found a suitable place in Virginia, where he might have practised his religion in secret, and the Virginians would have asked him no questions. But his views were more enlarged, and we next find him exploring the Chesapeake for a suitable lo-

cation for a Catholic colony, and where he might erect an altar to religious liberty.

His gallant exploit in Newfoundland, in defeating the French, gave him, we may suppose, some eclat in England, and a claim upon the gratitude of his sovereign: which was readily acknowledged by the cheap liberality of the grant of an unsettled portion of America: especially as the former grant of Avalon had proved a barren gift to Calvert, though of advantage to his country. Nothing could be more natural than to authorize the new charter to be drawn up in the same form as that for Avalon, which, having been prepared with great care under the late king, when Calvert was a member of the cabinet, thus became the model for that of Maryland, without the slightest reference to the respective belief of "the Protestant prince," or "the Catholic nobleman." Mr. Kennedy says: "I need not relate by what steps he (Calvert) contrived to secure the grant for this province. It was clearly within the limits of the Virginia charter."\* This remark would imply some unworthy proceeding on the part of Lord Baltimore. But history records none such. The candid McMahon, who insinuates nothing, but speaks with the dignity of a historian, says: "On his return to England he preferred his application for the grant of the province of Maryland, and sustained, as it was, by the considerations of distinguished services, untiring enterprise, and great moral worth, it was readily acceded to."† As to its being within the limits of the Virginia charter, the same historian informs us that, in 1623, nine years before the Maryland grant, in virtue of a *quo warranto*, the Virginia charters had been annulled, "and the rights granted by them revested in the crown. From that period Virginia became what was termed a 'royal government,' and as such there was an inherent right in the crown to alter and contract its boundaries, or to carve new and distinct territories or governments out of it at its

\* Hist. Maryland, vol. i, pp. 255 and 256.

\* Discourse, p. 20.

† Hist. Md. pp. 9 & 10.

pleasure.\* Regarding the point of law involved in the question, no higher professional opinion could be desired than that of this eminent lawyer; and he has pronounced the right "incontestable."†

In the endeavor to make his character of Calvert *original*, our orator's remarks upon his parliamentary career may be regarded as a specimen of that peculiar style of eulogy which the poet designates to "damn with faint praise;" but whether he succeeds in proving him "the advocate of the high kingly prerogative, as contradistinguished from the privilege of the legislative body," is of less consequence than to ascertain whether Calvert procured such a charter for Maryland as protected its people from the tyranny of the one and the oppression of the other. In his analysis of the charter for the purpose of exhibiting Lord Baltimore as a man who "was no great admirer of those forms which diffused power amongst the people, and restricted the exercise of it in the magistrate,"‡ we think the orator has done great injustice to his subject. Fortunately Calvert had other "chroniclers of his living actions," and other "heralds of his fame," than Mr. Kennedy, whose commentaries on the charter are furnished more for the purpose of illustrating the life of his *hero*, we should presume, than to exhibit the depth of his own researches on constitutional law, or American history.

"Turning to this instrument, then, we may remark," says Mr. Kennedy, "that it embodies a scheme of the strongest government known throughout all the American colonies."§

Chalmers makes a similar remark; but he adds what Mr. Kennedy omits: "The privileges conferred upon the people are assuredly *superior* to those granted to other colonists,"|| and McMahon says: "The charter of Maryland exhibits to us the most favorable form of proprietary government." But Mr. Kennedy asserts that

"The proprietary even claimed and practised in the course of the government

of the province, the right to dispense with the laws, in accordance with a principle asserted by King James, as a branch of the royal prerogative, and which we may conclude was consonant with Lord Baltimore's own opinion."\*\*

Now we are not aware of any such claim on the part of the proprietary. He held that the initiative, or the right to propound the laws to the legislature was with him; which was denied by that body, and claimed for themselves. Each rejected the body of laws *proposed* by the other: but that was very different from dispensing with the laws. The legislature might as well be said to have claimed the right to dispense with the laws as the proprietary. It was a question, in the infancy of the colony, merely as to who should originate the laws; and under the charter the people carried their point. The comparison to King James, and his royal prerogative, is a mere fancy tint, to give a shade of despotism to Lord Baltimore's character. But, says Mr. Kennedy, he was authorized to summon "whatsoever freemen he chose to take a seat in the legislative assembly, without election by the people, thus enabling him to control the majority of that body,"† and in proof of this power of the proprietary, he quotes a *portion only* of that sentence of the seventh section of the charter which confers the authority to make laws. We give the extract as prefaced and italicised by himself.

"The language of the charter, regarding the summoning of delegates, is:— 'Whom we will shall be called together for the framing of laws, when and as often as need shall require, by the aforesaid baron of Baltimore and his heirs, *and in the form which shall seem the best to him or them.*'"‡

Now the clause of the charter which confers the power referred to, has the following significant words in the preceding part of the *same* sentence from which Mr. Kennedy has quoted:

"We grant, &c., unto said baron, &c., power 'to ordain, make, and enact laws, &c. *of and with the advice, assent and ap-*

\* Ibid. p. 6. † Ibid. ‡ Discourse, p. 27.  
§ Ibid. p. 24. || Political Annals, p. 204.

\* Discourse, p. 42. † Ibid. p. 25. ‡ Ibid. note.



*probation* of the FREEMEN of the same province, or of the *greater part of them*, or of their *delegates* or *deputies*, whom we will *shall* be called together for the framing of laws when, and as often as need shall require, by the aforesaid now baron of Baltimore, and his heirs, and in the form which shall seem best to him or them.”\*

Did Mr. Kennedy do justice to the character of Lord Baltimore in quoting from that sentence of the charter—which not only authorizes, but positively commands the organization of a popular legislative body—only so much of it as relates to the form of convoking them? The power to enact laws is confided to the proprietary and the people or their representatives, jointly; but it is made the imperative duty of the proprietary to convene them:—“Whom we *will shall* be called together for the framing of laws.” Nay, more, the words of the charter provide that the deliberative body on whom this power of legislation is conferred shall be the “freemen, or the *greater part of them*, or their *delegates* or *deputies*,” and as to the form, it is to be that which “shall seem best to him or them.”

“The colonial history of that period, 1632,” says Mr. Kennedy, “furnished abundant examples in the New England settlements, of government on a much more popular basis, and we can not suppose that these were not well understood by Calvert.”

Mr. Kennedy does not designate any among the “abundant examples” of these governments on a more “popular basis” in 1632. They exist but in his imagination: which has been taxed too much already. The *only one*, at that period, “the charter on which the freemen of Massachusetts succeeded in erecting a system of independent representative liberty, did not secure to them a single privilege of self-government; but left them, as the Virginians had been left, *without one valuable franchise*, at the mercy of a corporation within the realm. This was so evident, that some of those who had al-

ready emigrated clamored that they were become slaves.”\*

To obviate these difficulties, it was arranged that the “corporation” should emigrate to Massachusetts, which it did in 1630. There, says Chalmers, “the ruling men showed their own temper, by sending forcibly to England those whose opinions or practice they did not believe were sufficiently orthodox.”† In 1631 it was “decreed that none shall be admitted to the *freedom* of the company, but such as were church members; that none but *freemen* shall vote at elections, or act as magistrates, or *jurymen*.”‡

These regulations were in full force in 1632, and in the only New England settlement which pretended to a charter at that period. And whether popular rights and rational liberty were more safe under such limitations, than under the charter of Maryland, we leave to the impartial to decide. In fact, while the liberties of the New England colonies were but in the germ, those of Maryland were in the full bloom of maturity. Hear the testimony of an enthusiastic son of New England of the present day.

“The fundamental charter of the colony of Maryland, however it may have neglected to provide for the power of the king, was the sufficient frank pledge of the liberties of the colonists, not less than of the rights and interests of the proprietary.”§

The orator’s opinions about the comparative excellence of different forms of government seem have undergone a remarkable change within the last eight years, if we may judge from the sentiments expressed by him in 1838, about the charter and form of government of Maryland; when he thus referred to them, in the preface to his *Rob of the Bowl*, over the signature of the “THE AUTHOR:”

“As a native of the state, he feels a prompt sensibility to the fame of her Catholic founders, and, though differing from

\* Bancroft, vol. i, p. 345.

† Political Annual, p. 153. ‡ Ibid.

§ Bancroft’s U. States, vol. i, p. 241.

\* Bacon’s translation of the Charter.

them in his faith, cherishes the remembrance of their noble endeavors to establish religious freedom, with the affection due to what *he believes the most wisely planned and honestly executed scheme of society which at that era*, at least, was to be found in the *annals of mankind*.”

As the author now contradicts himself, it is not surprising that his present views are at variance with those of every respectable writer on the government of Maryland. Now, we ask again, are we to credit Mr. Kennedy in 1838, or the same gentleman in 1846?

Instead of commending Lord Baltimore for that invaluable privilege secured by the charter to the province of Maryland—of an exemption for its laws and proceedings from any supervision or control by the king or parliament,—Mr. Kennedy only sees in this peculiar privilege a diminution of security “against infractions of the charter,”\* and intimates that it was “to strengthen the hand of the proprietary against a supervision which he chose to have as little exercised as possible.” Nor does he vouchsafe a word of praise for the exemption for ever, “by express covenant in the charter, from all royal taxation by the crown—from all ‘impositions, customs or other taxations, quotas or contributions whatever,’ to be levied by the king or his successors.”†

But he sums up his judgment of the charter, and delivers his sentence in the following authoritative decree:

“Certainly we may affirm of it that, however beneficent it might be under the ministration of a liberal and wise proprietary, it contains many features which but little coincide with our notions of free or safe government. Considering it as the work of Lord Baltimore himself, it is a very striking exponent of his political opinions,” and, we must infer “that he was, in fact, here, as well as in England, the friend of prerogative against privilege.”‡

The royalist Chalmers, who had lived and practised law in Maryland, many years, before the revolution, entertained very different sentiments, as appears by the following remarks on these topics:

“To guard against the irregularities of prerogative, therefore, and not the constitutional authority of parliament, he (Calvert) procured, with that caution which experience inspires, the various clauses before mentioned, to be inserted in his patent. And from all such taxation, and even legislation, the people of Maryland were most assuredly exempted.”\*

We shall conclude with Mr. McMahon’s remarks upon these points:

“The proprietary might, doubtless, have as easily obtained a grant of legislative power, to be exercised solely by himself, and quite as extensive: and the admission of the colonists to participation in it, at once evinces his sagacity, and reflects lustre on his character. It was this exalted privilege, which endeared his government to the people of Maryland: and had they not possessed it, his dominion would soon have been marked by the same arbitrary character, and have shared the same fate with that of the London company. There was another very peculiar feature in the grant of legislative power. The sovereignty of the mother-country was reserved in terms, but the proprietary was under no obligation to transmit the laws of the province to the king, for allowance or disallowance. Thus the vigilance of the crown, in guarding its own prerogatives against silent and gradual encroachments, was in a great measure excluded.”†

In the tenth edition of his History of the United States, Bancroft has this record:

“Sir George Calvert died, leaving a name against which the breath of calumny has hardly whispered a reproach.”‡

In a future edition he may add that, although history had ennobled that name, for more than two centuries, among the most disinterested, conscientious, and liberal founders of states, it was the ungracious office of a native orator of the state he had founded—in that city whose gratitude, signalized by its monuments, is the proud memorial of his titled name and

\* Polit. Ann. p. 205.

\* Discourse, p. 26. † Ibid. ‡ Ibid. p. 27.

† Hist. of Md. p. 155. ‡ Vol. i, p. 244.

fame—to present him to the world as an interested speculator in charters, a temporizing hypocrite in religion, and a selfish and despotic statesman. But that enlightened historian will vindicate the fame of Calvert by pointing to the impartial history of the past, which sparkles with the record of his virtues—whilst he again registers the fact that he “was the first to plan the establishment of popular institutions with the enjoyment of liberty of conscience,”—and he will point to the present prosperous, patriotic, and happy commonwealth, as the monument of his successful policy in adopting “religious freedom as the basis of the state.”\*

Far better had it been for the fame of Mr. Kennedy, had he never attempted to write the life of Lord Baltimore; which, with the solemn air of a historian, he has made the dullest of his works of fiction; full of grave invention, without wit or humor to enliven it. And far more honorable to his love for his native state, had he withheld the unfilial, though impotent hand which has been extended to deprive the founders of our commonwealth of their glory and fame, as examples to the world in the establishment of a state, upon principles alike sacred to liberty, and sanctified by the charities of religion.

\* Ibid.

It is unaccountable how such a production should have fallen from the pen of Mr. Kennedy. Without insinuating that he acted with any evil intention, his inconsistency and signal failure have reminded us of an amusing story that embellished the pages of a spirited ephemeral periodical, which the juvenile efforts of several wits of Baltimore produced, some quarter of a century since, under the title of the *Red Book*. The story we refer to—*The Student of Gottingen*—is composed with grace and elegance, and conveys an excellent moral, that may be useful to all writers. Namely, that an author should never be induced to write by the promptings of evil advisers. The story represents the student at the midnight hour, alone in his chamber, broken down, and at his wit's end to know what he shall do next to make his way through the world. His solitary musings are interrupted by the appearance of the devil in the disguise of a Capuchin friar. After the student has informed him of the cause of his despondency, and requested his counsel, the friar praises his learning and genius, and tells him to *write*. “But what shall I write?” asked the student. The friar dictated, and the story concludes with stating that the student did as the friar had told him, and, as the devil had foreseen—the student was *dammèd*.















